

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LUIS MALAVE	:	CIVIL ACTION
	:	
vs.	:	
	:	
MARILYN BROOKS, et al.	:	NO. 07-1990

**ORDER**

**AND NOW**, this 22nd day of February, 2008, upon careful and independent consideration of the Petition for Writ of Habeas Corpus, and the response and rebuttal thereto, and after review of the Report and Recommendation of United States Magistrate Judge Arnold C. Rapoport dated January 28, 2008, it is hereby **ORDERED** that:

1. Luis Malave's "Objection to Motion to Dismiss" filed February 21, 2008, which we treat as objections to the Magistrate Judge's Report and Recommendation, is hereby **DENIED**.

2. The Report and Recommendation is **APPROVED and ADOPTED**.

3. The Petition for Writ of Habeas Corpus is **DENIED** with prejudice and **DISMISSED** without an evidentiary hearing.

4. Petitioner's Motion to Withdraw Petition for Writ of Habeas Corpus (Doc. No. 18) is **DENIED**.

4. There is no probable cause to issue a certificate of appealability.

BY THE COURT:

/s/ Robert F. Kelly  
ROBERT F. KELLY  
SENIOR JUDGE